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QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121			WILSON, ROBERT W	
ART UNIT		PAPER NUMBER		
2419				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 09/804,621	<b>Applicant(s)</b> WILLENEGGER ET AL.
	<b>Examiner</b> ROBERT W. WILSON	<b>Art Unit</b> 2419

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### **Status**

1) Responsive to communication(s) filed on 2/3/09.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 14 and 17-29 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 14 and 17-29 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/3/09

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 103***

1. Claims 14 & 17-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walton (U.S. Patent No: 5,621,723) further in view of Bae (U.S. Patent No.: 5,832,387) which is an IDS document of record further in view of Raith (U.S. Patent No.: 5,930,706)

Referring to claim 14, Walton teaches: a method in a base station (Base Station per col. 6 line 45 to col. 7 lines 20)

Receiving from a single remote station a reverse link signal wherein said reverse link signal that comprises a plurality of subchannels (The base station receives a reverse link signal which comprises one of 8 subchannels or a channel set which is associated with a data rate or subchannels from a single mobile or single remote station per col. 3 line 15 to col. 4 line 45 and per col. 6 line 46 to col. 67 line 20)

adjusting transmit power of a plurality of subchannel signals to different levels by generating power control message for adjusting the transmit power of one or set of subchannel signals (The base station sends power control bits or power control message to the mobile station based upon the comparison of the power to a threshold and so the mobile can adjust the transmit power to the per col. 3 line 15 to col. 4 line 45 and per col. 6 line 46 to col. 67 line 20) and

Comparing the power in a channel or set of channels associated with a threshold for said generating said power control message (The base station compares the power in a channel or subchannel or set of channels or set of subchannels to a threshold for in order to generate a power control message per col. 3 line 15 to col. 4 line 45 and per col. 6 line 46 to col. 67 line 20)

Walton does not expressly call for: independently adjusting more than one subchannel or Frame Error Rate

Bae teaches: independently adjusting more than one subchannel (The combination of 704, 706, 710 and 712 receive plurality of subchannel measurement relative to SNR and send message for each subchannel which adjust the power of each subchannel separately or independently via 712 per Fig 8 and per col. 4 lines 15 to col. 6 line 45)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add independently adjusting more than one subchannel of Bae in place of the single reverse link channel or subchannel of Walton in order to build a system which has a channel which has multiple channels which can intercommunicate with the base station and improved the performance

The combination of Walton and Cooper do not expressly call for: frame error rate

Raith teaches frame error rate can be substituted in place of received signal strength (RSS) per col. 18 lines 28 to 49.

It would have been obvious to one of ordinary skill in the art at the time of the invention add FER of Raith in place of measuring signal power of Walton and Bae because both FER and signal power are quality measurements which can be utilized to determine the deterioration of a channel

Referring to claim 17, the combination of Walton, Bae, and Raith teach: the method as recited in claim 14 and Walton further comprising generating a plurality of quality threshold values corresponding to the plurality of subchannel in accordance with the measured signal power for each of the subchannel signals (threshold is generated for each data rate and data rate corresponds to each channel or subchannel per col. 3 line 16 to col. 4 line 45 and per col. 6 line 46 to col. 7 line 20

Walton and Bae do not expressly call for: Frame Error Rate

Raith teaches frame error rate can be substituted in place of received signal strength (RSS) per col. 18 lines 28 to 49.

It would have been obvious to one of ordinary skill in the art at the time of the invention add FER of Raith in place of measuring signal power of Walton, Bae, and Raith because both FER and signal power are quality measurements which can be utilized to determine the deterioration of a channel.

In addition Walton teaches:

Regarding claim 18, further comprising wherein said generating includes generating at least a plurality of bits, wherein each bit represents a command to increase or decrease the transmit power of one of said subchannel signals by a predetermined amount (The inherent bits in the power control message can adjust the power in 1dB step size or predetermined amount per col. 6 lines 46 to 67)

Regarding claim 19, generating a plurality of gain values and applying each gain value to one of said plurality of signal to adjust the transmit power of said subchannel signals (plurality of bits wherein each bit inherently corresponds to a command to increase or decrease the transmit of the transmit power of one of the subchannels by a predetermined amount col. 6 lines 45 to 67.

Referring to claim 20, the combination of Walton, Bae, and Raith teach: the method as recited in claim 14 and Walton teaches: further comprising decoding each of said corresponding subchannel signals and determining frame error in said subchannel signals ( The base station has inherent decoder for decoding corresponding subchannels and determining the signals power per col. 3 line 16 to col. 4 line 45 and per col. 6 line 46 to col. 7 line 20)

Walton and Bae do not expressly call for: Frame Error Rate

Raith teaches frame error rate can be substituted in place of received signal strength (RSS) per col. 18 lines 28 to 49.

It would have been obvious to one of ordinary skill in the art at the time of the invention add FER of Raith in place of measuring signal power of Walton, Raith, and Cooper because both FER and signal power are quality measurements which can be utilized to determine the deterioration of a channel

Referring to claim 21, Walton teaches: An apparatus for wireless communication (Base Station per col. 6 line 45 to col. 7 lines 20) comprising:

A receiver configured to receive from a single remote station a reverse link signal that comprises a plurality of subchannel signals (The base station has an inherent receiver which receives a reverse link signal which comprises one of 8 subchannels or a channel set which is associated with a data rate or subchannels from a single mobile or single remote station per col. 3 line 15 to col. 4 line 45 and per col. 6 line 46 to col. 67 line 20)

A threshold generator configured to provide a power threshold for at least one of the subchannels (The base station generates a threshold for measuring the power from a subchannel per col. 3 line 15 to col. 4 line 45 and per col. 6 line 46 to col. 67 line 20)

A comparator configured to compare a power of at least one of the subchannel with a threshold for that subchannel signal (The base station compares the power to at least one threshold for the subchannel per col. 6 lines 45 to 67)

A message generator configured to adjust transmit power of one or more of the plurality of subchannel signals by generating a power control messages based on the comparison (The base station sends power control bits or power control message based upon the comparison per col. 6 lines 45 to 67)

Walton does not expressly call for: independently adjusting more than one subchannel or Frame Error Rate

Bae teaches: independently adjusting more than one subchannel (The combination of 704, 706, 710 and 712 receive plurality of subchannel measurement relative to SNR and send message for each subchannel which adjust the power of each subchannel separately or independently via 712 per Fig 8 and per col. 4 lines 15 to col. 6 line 45)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add independently adjusting more than one subchannel of Bae in place of the single reverse link channel or subchannel of Walton in order to build a system which has a channel which has multiple channels which can intercommunicate with the base station and improved the performance

The combination of Walton and Cooper do not expressly call for: frame error rate

Raith teaches frame error rate can be substituted in place of received signal strength (RSS) per col. 18 lines 28 to 49.

It would have been obvious to one of ordinary skill in the art at the time of the invention add FER of Raith in place of measuring signal power of Walton and Bae because both FER and signal power are quality measurements which can be utilized to determine the deterioration of a channel

Referring to claim 22, the combination of Walton, Bae, Raith teach: the apparatus for wireless communication and Walton teaches a message generator is configured to generate a plurality of quality threshold values corresponding to the plurality of subchannel in accordance with a measured signal power for each subchannel (threshold is generated for each data rate and data rate corresponds to each channel or subchannel per col. 3 line 16 to col. 4 line 45 and per col. 6 line 46 to col. 7 line 20

Walton and Bae does not expressly call for: Frame Error Rate

Raith teaches frame error rate can be substituted in place of received signal strength (RSS) per col. 18 lines 28 to 49.

It would have been obvious to one of ordinary skill in the art at the time of the invention add FER of Raith in place of measuring signal power of Walton, Bae, and Raith because both FER and signal power are quality measurements which can be utilized to determine the deterioration of a channel.

In addition Walton teaches:

Regarding claim 23, wherein the message generator is configured to generate at least a plurality of bits wherein each bit inherently corresponds to a command to increase or decrease the transmit of the transmit power of one of the subchannels by a predetermined amount (The inherent bits in the power control message can adjust the power in 1dB step size or predetermined amount per col. 6 lines 46 to 67)

Referring to claim 24, the combination of Walton, Bae, and Raith teach: the apparatus for wireless communication of claim 21, Walton teaches: further comprising a decoder configured to decode each of the subchannel signal from the received reverse link signal and wherein the comparator is configured to calculate the power in each of the subchannels (The base station has inherent decoder to decode the received reverse link signals per col. 6 lines 45 to 67 and a comparator is configured to calculated the reverse link received power on each subchannel per col. 6 lines 45 to 67

Walton and Bae do not expressly call for: Frame Error Rate

Raith teaches: Frame Error Rate (Frame Error Rate can be substituted for power measurement or channel quality measurement

It would have been obvious to one of ordinary skill in the art at the time of the invention add FER of Raith in place of measuring signal power of Walton, Bae, and Raith because both FER and signal power are quality measurements which can be utilized to determine the deterioration of a channel.

Referring to claim 25, Walton teaches: An apparatus for wireless communication (Base Station per col. 6 line 45 to col. 7 lines 20) comprising:

Means for receiving from a single remote station a reverse link signal that comprises a plurality of subchannel signals (The Base station has inherent port or means for receiving a reverse link signal which comprises a plurality of channels col. 3 line 15 to col. 4 line 45 and per col. 6 line 46 to col. 67 line 20)

Means for comparing power of at least one channel or subchannel with a threshold for at least that subchannel signal (The base station compares the power associated with channel or subchannel with a threshold per col. 3 line 15 to col. 4 line 45 and per col. 6 line 46 to col. 67 line 20)

means for adjusting transmit powers of one or more of the plurality of channels to different levels by generating a power control message base upon comparison (The base station compares the power to at least one threshold or means for comparing for the subchannel or means per col. 6 lines 45 to 67)

Walton does not expressly call for: independently adjusting more than one subchannel or Frame Error Rate

Bae teaches: independently adjusting more than one subchannel (The combination of 704, 706, 710 and 712 receive plurality of subchannel measurement relative to SNR and send message for each subchannel which adjust the power of each subchannel separately or independently via 712 per Fig 8 and per col. 4 lines 15 to col. 6 line 45)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add independently adjusting more than one subchannel of Bae in place of the single reverse link channel or subchannel of Walton in order to build a system which has a channel which has multiple channels which can intercommunicate with the base station and improved the performance

The combination of Walton and Bae do not expressly call for: frame error rate

Art Unit: 2419

Raith teaches frame error rate can be substituted in place of received signal strength (RSS) per col. 18 lines 28 to 49.

It would have been obvious to one of ordinary skill in the art at the time of the invention add FER of Raith in place of measuring signal power of Walton and Bae because both FER and signal power are quality measurements which can be utilized to determine the deterioration of a channel

Referring to claim 26, the combination of Walton, Raith, and Bae teach: the apparatus for wireless communication of claim 25 and Walton further comprising means for generating a plurality of quality threshold values corresponding to the plurality of subchannel in accordance with the measured signal power for each of the subchannel signals (threshold is generated for each data rate or means and data rate corresponds to each channel or subchannel per col. 3 line 16 to col. 4 line 45 and per col. 6 line 46 to col. 7 line 20

Walton and Bae do not expressly call for: Frame Error Rate

Raith teaches frame error rate can be substituted in place of received signal strength (RSS) per col. 18 lines 28 to 49.

It would have been obvious to one of ordinary skill in the art at the time of the invention add FER of Raith in place of measuring signal power of Walton, Bae, and Raith because both FER and signal power are quality measurements which can be utilized to determine the deterioration of a channel.

In addition Walton teaches:

Regarding claim 27, further comprising means for generating at least a plurality of bits, wherein each bit represents a command to increase or decrease the transmit power of one of said subchannel signals by a predetermined amount (bits in the power control message can adjust the power in 1dB step size or predetermined amount or means for generating per col. 6 lines 46 to 67)

Referring to claim 28, the combination of Walton, Bae, and Raith teach: the apparatus for wireless communication of claim 25 and Walton teaches: further comprising means for decoding each of said corresponding subchannel signals and determining frame error in said subchannel signals (The base station has inherent decoder for decoding corresponding subchannels and determining the signals power per col. 3 line 16 to col. 4 line 45 and per col. 6 line 46 to col. 7 line 20)

Walton and Bae do not expressly call for: Frame Error Rate

Raith teaches frame error rate can be substituted in place of received signal strength (RSS) per col. 18 lines 28 to 49.

It would have been obvious to one of ordinary skill in the art at the time of the invention add FER of Raith in place of measuring signal power of Walton, Bae, and Raith because both FER and signal power are quality measurements which can be utilized to determine the deterioration of a channel

Referring to claim 29, Walton teaches: A Base station (Base Station per col. 6 line 45 to col. 7 lines 20) comprising

An antenna (Base Station per Figures 1 and Figures 2 has inherent antenna)

A receiver configured to receive from a single remote station a reverse link signal that comprises a plurality of subchannel signals (The base station has an inherent receiver which receives a reverse link signal which comprises one of 8 subchannels or a channel set which is associated with a data rate or subchannels from a single mobile or single remote station per col. 3 line 15 to col. 4 line 45 and per col. 6 line 46 to col. 67 line 20)

A threshold generator configured to provide a power threshold for at least one of the subchannels (The base station generates a threshold for measuring the power from a subchannel per col. 3 line 15 to col. 4 line 45 and per col. 6 line 46 to col. 67 line 20)

A comparator configured to compare a power of at least one of the subchannel with a threshold for that subchannel signal (The base station compares the power to at least one threshold for the subchannel per col. 6 lines 45 to 67)

A message generator configured to adjust transmit power of one or more of the plurality of subchannel signals by generating a power control messages based on the comparison (The base station sends power control bits or power control message based upon the comparison per col. 6 lines 45 to 67)

Walton does not expressly call for: independently adjusting more than one subchannel or Frame Error Rate

Bae teaches: independently adjusting more than one subchannel (The combination of 704, 706, 710 and 712 receive plurality of subchannel measurement relative to SNR and send message for each subchannel which adjust the power of each subchannel separately or independently via 712 per Fig 8 and per col. 4 lines 15 to col. 6 line 45)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add independently adjusting more than one subchannel of Bae in place of the single reverse link channel or subchannel of Walton in order to build a system which has a channel which has multiple channels which can intercommunicate with the base station and improved the performance

The combination of Walton and Cooper do not expressly call for: frame error rate

Raith teaches frame error rate can be substituted in place of received signal strength (RSS) per col. 18 lines 28 to 49.

It would have been obvious to one of ordinary skill in the art at the time of the invention add FER of Raith in place of measuring signal power of Walton and Bae because both FER and signal power are quality measurements which can be utilized to determine the deterioration of a channel

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 14 & 17-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Referring to claim 14, claim 14 is directed to a method. The base station referred to in the preamble is an intended use and not claimed limitation. Method claims which lack physical structure to perform the method and do not perform a physical transformation or fall under the category of a preemption because they are an abstraction are non-statutory. None of the claims dependent upon claim 14 correct any of these deficiencies so they are also non-statutory subject matter.

***Response to Amendment***

5. Applicant's arguments with respect to claims 14 & 17-29 have been considered but are moot in view of the new ground(s) of rejection.

The examiner has provided the following explanation in order to responsive to the applicant's arguments and amendment.

The examiner respectfully disagrees with the applicant's argument that Walton does not disclose independently adjusting transmit power of one or more of a plurality of subchannel signals to different levels.

Walton teaches: adjusting transmit power of one or more than one of a plurality of subchannels to different levels (Walton teaches: channels or set of channels are grouped in order for

transmission at a given rate. Each channel or group of channels can be adjusted to a power level independently from another channel or set of channels which represent a different rate per col. 3 line 15 to col. 4 line 45 and per col. 6 line 46 to col. 67 line 20)

Walton does not expressly call for: independently adjusting more than one subchannel or Frame Error Rate

Bae teaches: independently adjusting more than one subchannel (The combination of 704, 706, 710 and 712 receive plurality of subchannel measurement relative to SNR and send message for each subchannel which adjust the power of each subchannel separately or independently via 712 per Fig 8 and per col. 4 lines 15 to col. 6 line 45)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add independently adjusting more than one subchannel of Bae in place of the single reverse link channel or subchannel of Walton in order to build a system which has a channel which has multiple channels which can intercommunicate with the base station and improved the performance

The combination of Walton and Cooper do not expressly call for: frame error rate

Raith teaches frame error rate can be substituted in place of received signal strength (RSS) per col. 18 lines 28 to 49.

It would have been obvious to one of ordinary skill in the art at the time of the invention add FER of Raith in place of measuring signal power of Walton and Bae because both FER and signal power are quality measurements which can be utilized to determine the deterioration of a channel

Thus the new reference, Bae remedies the deficiency of independently adjusting more than one subchannel.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT W. WILSON whose telephone number is (571)272-3075. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571/272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

//Robert W Wilson/  
Primary Examiner, Art Unit 2419

RWW